

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
MANHATTAN DIVISION**

**In re:**

**GEORGINA FALU CO, LLC,**  
  
**Debtor.**

**Case No. 23-11004-mew**

**Chapter 11**

**REPLY TO DEBTOR’S OPPOSITION TO MOTION TO DISMISS  
SINGLE ASSET REAL ESTATE CASE, AND MOTION FOR STAY RELIEF**

U.S. Bank National Association, as Trustee for Velocity Commercial Capital Loan Trust 2017-2 (the “Trust”), submits this Reply (the “Reply”) to the Debtor’s Opposition to Trust’s Motion to Dismiss this Case, or in the Alternative to Lift the Automatic Stay. In support of the foregoing, the Trust respectfully represents the following:

**ARGUMENT**

Trust seeks the most expeditious process to protect the property from further deterioration so that it can be sold quickly to satisfy in full the Debtor’s mortgage debt. Unfortunately, the Debtor has deferred building maintenance and repairs for years causing the property’s condition to deteriorate significantly as shown by 93 open code violations (see **Exhibit A**), 5 overdue lead paint violations (see **Exhibit B**), June 15, 2023 interior inspection photos (see **Exhibit C**), and the June 12, 2023 licensed contractor repair bid (not including interior units) (see **Exhibit D**). The Debtor’s property management inexperience is also highlighted by significant lost rental income from 2 of the 4 units and being immersed in stagnant tenant eviction cases. These major problems did not happen by accident, accumulated over several years due to Dr. Falu’s mismanagement, and require immediate resolution to entice potential buyers.

Debtor’s reliance upon a stale two-year old property appraisal dated April 10, 2022 is misguided. Attached hereto as **Exhibit E** is a June 30, 2023 appraisal showing fair market value

at \$1,740,000.<sup>1</sup> The Court can rely upon this appraisal to conclude that the Debtor lacks equity in the property. Moreover, the Trust's \$1,639,044.84 proof of claim is prima facie valid and has not been objected to by the Debtor. Thus, the Debtor's equity cushion is only 6% and that amount is not enough to shield the Trust from loss due to any decrease in value of the property during the time the automatic stay remains in effect. Courts generally hold that an equity cushion of less than 10% is insufficient to constitute adequate protection. *See, e.g., In re Tucker*, 5 B.R. 180, 12 (Bankr.S.D.N.Y.1980) (7.4% inadequate).

If the Court *conditions* the automatic stay under 11 U.S.C. § 362(d)(3) to afford the Debtor an opportunity to market the property for sale, the Trust submits that the following conditions should be implemented to protect the estate and all creditors:

- (1) Appoint a trustee or receiver to manage the Debtor's estate professionally; someone who will address the plethora of problems identified herein;
- (2) Authorize MYC's retention as real estate broker on an emergency basis so that it can immediately commence marketing efforts;
- (3) Require Debtor to file all claim objections within 10 days;
- (4) Dismiss the case after 60 days if no sale contract is procured; and
- (5) Order Debtor to make monthly payments to the Trust in an amount equal to interest at the applicable nondefault contract rate of interest.

**WHEREFORE**, the Trust respectfully requests that this Court issue an Order (i) dismissing the bankruptcy case pursuant to 11 U.S.C. § 1112(b), in the alternative, (ii) granting stay relief under 11 U.S.C. § 362(d), and (iii) granting such other relief as the Court deems just and proper.

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<sup>1</sup> This appraisal was an interior inspection only and the appraiser was unable to determine if conditions exist which affect the livability, soundness or structural integrity of the building. The Exhibits attached hereto confirm that substantial material defects exist which reduce the property's value.

Dated: February 5, 2024

By: /s/ Gregory Sanda  
Gregory Sanda, NYBN 4446340  
Andrew Kamensky, NYBN 4963757  
MCMICHAEL TAYLOR GRAY, LLC  
3550 Engineering Drive, Suite 260  
Peachtree Corners, GA 30092  
Telephone: (404) 474-7149  
Facsimile: (404) 745-8121  
[gsanda@mtglaw.com](mailto:gsanda@mtglaw.com)  
[akamensky@mtglaw.com](mailto:akamensky@mtglaw.com)  
*Attorneys for Velocity Commercial  
Capital Loan Trust 2017-2*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Reply was served via CM/ECF electronic service upon counsel for the Debtor and all parties in interest who have filed a notice of appearance, and as noted below.

**Via U.S. Mail**

Georgina Falu Co, LLC  
175 W. 95<sup>th</sup> Street  
25B  
New York, NY 10025

Georgina Falu  
175 W. 95<sup>th</sup> Street  
25B  
New York, NY 10025

Georgina Falu Co, LLC  
329 East 118<sup>th</sup> Street  
New York, NY 10035

Georgina Falu  
329 East 118<sup>th</sup> Street  
New York, NY 10035

**Via CM/ECF electronic service**

Charles A Higgs  
Law Office of Charles A. Higgs  
2 Depot Plaza  
Bedford Hills, NY 10507

Mark Bruh  
DOJ-Ust  
Southern District of New York  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1408

Small Business Administration  
26 Federal Pl 3100  
New York, NY 10278

United States Trustee  
Office of the United States Trustee-NY  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1408

Honorable Michael E. Wiles  
One Bowling Green  
New York, NY 10004-1408

This 5<sup>th</sup> day of February, 2024.

/s/ Gregory Sanda

McMICHAEL TAYLOR GRAY, LLC  
3555 Engineering Drive, Suite 260  
Peachtree Corners, GA 30092